REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed January 5, 2006. More specifically claims 1 – 51 remain pending. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Allowable Subject Matter

The Office Action indicates that claims 35 – 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants sincerely appreciate the indication of allowable subject matter, but respectfully submit claims 35 – 43 are allowable for at least the reason that these claims depend from allowable independent claim 1, as discussed below. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

II. Rejections Under 35 U.S.C. §102

A proper rejection of a claim under 35 U.S.C. §102 requires that a single cited art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983).

A. Claim 1 is Patentable Over *Morris et al.*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Number 6,477,144 ("*Morris*"). Applicants

respectfully traverse this rejection on the grounds that *Morris* does not disclose, teach, or suggest all of the claimed elements. More specifically, claim 1 recites:

> A method of providing network access across a shared communications medium between at least four competing users, with at least a first pair of users being grouped within a first class and at least a second pair of different users being grouped within a second class, comprising the steps of:
>
> (a) determining class and user allowances of network access for a first time interval by allocating network access to each user class for a first future time interval and, for each user class, allocating network access to each user within the class for the first time interval,
>
> (b) providing network access to each user during the first time interval such that no user receives more network access than that user's allowance and no class receives more collective network access than that class' network allowance;
>
> (c) determining class and user allowances of network access for a second time interval by allocating network access to each user class for a second future time interval succeeding the first time interval and, for each user class, ***allocating network access for the second time interval for at least one user differing from that user's allocated network access for the first time interval***; and
>
> (d) providing network access to each user during the second time interval such that no user receives more network access than that user's allowance and no class receives more collective network access than that class' allowance. ***(emphasis added)***

Applicants respectfully submit that the Office Action fails to identify the specific place in *Morris* that discloses the allegedly anticipated subject matter. As a nonlimiting example, the Office Action asserts that *Morris* discloses "determining priority associated with bandwidth assignment..." (OA p. 3, second line from bottom). However, the Office Action fails to identify a specific place in the reference where this subject matter exists. Applicants respectfully submit that for at least this reason, the rejection is improper and clam 1 is allowable over the cited art.

Additionally, Applicants submit that the cited art fails to disclose, teach, or suggest a "method of providing network access across a shared communications medium between at least

four competing users, with at least a first pair of users being grouped within a first class and at least a second pair of different users being grouped within a second class, comprising the steps of... determining class and user allowances of network access for a second time interval by allocating network access to each user class for a second future time interval succeeding the first time interval and, for each user class, ***allocating network access for the second time interval for at least one user differing from that user's allocated network access for the first time interval***..." as recited in claim 1. More specifically, *Morris* appears to disclose a "method [that] includes further steps of outputting cells to the output link from the queues according to the scheduled departure time of the linked list of traffic classes and updating the Tnext according to the bandwidth allocated to each class" (col. 2, line 63, emphasis added). Nowhere in *Morris* is there any discussion of "***allocating network access for the second time interval for at least one user differing from that user's allocated network access for the first time interval***..." as recited in claim 1. For at least this reason, claim 1 is allowable over the cited art.

B. Claims 2 – 16, 19 – 21, 26 – 28, 30, 32 – 33, 47, and 49 – 50 are Patentable Over *Morris*

The Office Action indicates that claims 2 – 16, 19 – 21, 26 – 28, 30, 32 – 33, 47, and 49 – 50 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Morris*. Applicants respectfully traverse this rejection on the grounds that *Morris* does not disclose, teach, or suggest all of the claimed elements. More specifically, dependent claims 2 – 16, 19 – 21, 26 – 28, 30, 32 – 33, 47, and 49 –50 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

III. Rejections Under 35 U.S.C. §103

The Office Action indicates that claims 17 – 18, 22 – 25, 29, 31, 34, 46, 48, and 51 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Morris* in view of U.S. Patent Number 6,028,860 ("*Laubach*"). Applicants respectfully traverse this rejection for at least the reason that *Morris* in view of *Laubach* fails to disclose, teach, or suggest all of the elements of claims 17 – 18, 22 – 25, 29, 31, 34, 46, 48, and 51. More specifically, dependent claims 17 – 18, 22 – 25, 29, 31, 34, 46, 48, and 51 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

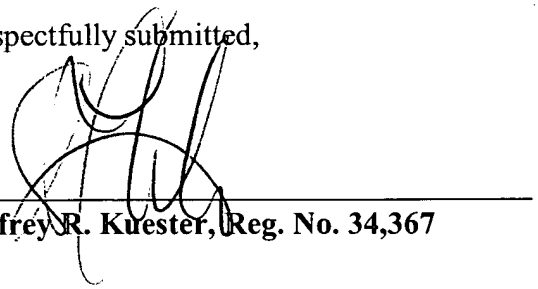
CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Further, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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